

111TH CONGRESS  
1ST SESSION

# S. 1377

To provide for an automatic increase in the Federal matching rate for the Medicaid program during periods of national economic downturn to help States cope with increases in Medicaid costs.

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IN THE SENATE OF THE UNITED STATES

JUNE 25, 2009

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for an automatic increase in the Federal matching rate for the Medicaid program during periods of national economic downturn to help States cope with increases in Medicaid costs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. AUTOMATIC INCREASE IN THE FEDERAL MED-**  
4                       **ICAL ASSISTANCE PERCENTAGE DURING PE-**  
5                       **RIODS OF NATIONAL ECONOMIC DOWNTURN.**

6       (a) NATIONAL ECONOMIC DOWNTURN ASSISTANCE  
7       FMAP.—

1           (1) IN GENERAL.—Section 1905 of the Social  
2       Security Act (42 U.S.C. 1396d) is amended—

3           (A) in subsection (b), in the first sen-  
4       tence—

5           (i) by striking “and (4)” and inserting  
6       “(4)”; and

7           (ii) by inserting “and (5) with respect  
8       to each fiscal year quarter other than the  
9       first quarter of a national economic down-  
10      turn assistance period described in sub-  
11      section (y)(1), the Federal medical assist-  
12      ance percentage for any State described in  
13      subsection (y)(2) shall be equal to the na-  
14      tional economic downturn assistance  
15      FMAP determined for the State for the  
16      quarter under subsection (y)(3)” before  
17      the period; and

18          (B) by adding at the end the following:

19       “(y) NATIONAL ECONOMIC DOWNTURN ASSISTANCE  
20      FMAP.—For purposes of clause (5) of the first sentence  
21      of subsection (b):

22           “(1) NATIONAL ECONOMIC DOWNTURN ASSIST-  
23      ANCE PERIOD.—A national economic downturn as-  
24      sistance period described in this paragraph—

“(A) begins with the first fiscal year quarter for which the Secretary determines that for at least 23 States, the rolling average unemployment rate for that quarter has increased by at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available (in this subsection referred to as the ‘trigger quarter’); and

“(B) ends with the first succeeding fiscal year quarter for which the Secretary determines that less than 23 States have a rolling average unemployment rate for that quarter with an increase of at least 10 percent over the corresponding quarter for the most recent preceding 12-month period for which data are available.

“(2) ELIGIBLE STATE.—A State described in this paragraph is a State for which the Secretary determines that the rolling average unemployment rate for the State for any quarter occurring during a national economic downturn assistance period described in paragraph (1) has increased over the corresponding quarter for the most recent preceding 12-month period for which data are available.

1           “(3) DETERMINATION OF NATIONAL ECONOMIC  
2       DOWNTURN ASSISTANCE FMAP.—

3           “(A) IN GENERAL.—The national economic  
4       downturn assistance FMAP for a fiscal year  
5       quarter determined with respect to a State  
6       under this paragraph is equal to the Federal  
7       medical assistance percentage for the State for  
8       that quarter increased by the number of per-  
9       centage points determined by—

10           “(i) dividing—

11           “(I) the Medicaid additional un-  
12       employed increased cost amount de-  
13       termined under subparagraph (B) for  
14       the quarter; by

15           “(II) the State’s total Medicaid  
16       quarterly spending amount deter-  
17       mined under subparagraph (C) for the  
18       quarter; and

19           “(ii) multiplying the quotient deter-  
20       mined under clause (i) by 100.

21           “(B) MEDICAID ADDITIONAL UNEMPLOYED  
22       INCREASED COST AMOUNT.—For purposes of  
23       subparagraph (A)(i)(I), the Medicaid additional  
24       unemployed increased cost amount determined

under this subparagraph with respect to a State  
and a quarter is the product of the following:

“(i) STATE INCREASE IN ROLLING AV-  
ERAGE NUMBER OF UNEMPLOYED INDIVID-  
UALS FROM THE BASE QUARTER OF UNEM-  
PLOYMENT.—

“(I) IN GENERAL.—The amount  
determined by subtracting the rolling  
average number of unemployed indi-  
viduals in the State for the base un-  
employment quarter for the State de-  
termined under subclause (II) from  
the rolling average number of unem-  
ployed individuals in the State for the  
quarter.

“(II) BASE UNEMPLOYMENT  
QUARTER DEFINED.—

“(aa) IN GENERAL.—For  
purposes of subclause (I), except  
as provided in item (bb), the base  
quarter for a State is the quarter  
with the lowest rolling average  
number of unemployed individ-  
uals in the State in the 12-month  
period preceding the trigger

1 quarter for a national economic  
 2 downturn assistance period de-  
 3 scribed in paragraph (1).

4 “(bb) EXCEPTION.—If the  
 5 rolling average number of unem-  
 6 ployed individuals in a State for  
 7 a quarter occurring during a na-  
 8 tional economic downturn assist-  
 9 ance period described in para-  
 10 graph (1) is less than the rolling  
 11 average number of unemployed  
 12 individuals in the State for the  
 13 base quarter determined under  
 14 item (aa), that quarter shall be  
 15 treated as the base quarter for  
 16 the State for such national eco-  
 17 nomic downturn assistance pe-  
 18 riod.

19 “(ii) NATIONAL AVERAGE AMOUNT OF  
 20 ADDITIONAL FEDERAL MEDICAID SPEND-  
 21 ING PER ADDITIONAL UNEMPLOYED INDIVIDUAL.—In the case of—

23 “(I) a calendar quarter occurring  
 24 in fiscal year 2012, \$350; and

1 “(II) a calendar quarter occur-  
 2 ring in any succeeding fiscal year, the  
 3 amount applicable under this clause  
 4 for calendar quarters occurring during  
 5 the preceding fiscal year, increased by  
 6 the annual percentage increase in the  
 7 medical care component of the con-  
 8 sumer price index for all urban con-  
 9 sumers (U.S. city average), as round-  
 10 ed up in an appropriate manner.

11 “(iii) STATE NONDISABLED, NON-  
 12 ELDERLY ADULTS AND CHILDREN MED-  
 13 ICAID SPENDING INDEX.—

14 “(I) IN GENERAL.—With respect  
 15 to a State, the quotient (not to exceed  
 16 1.00) of—

17 “(aa) the State expenditure  
 18 per person in poverty amount de-  
 19 termined under subclause (II);  
 20 divided by—

21 “(bb) the National expendi-  
 22 ture per person in poverty  
 23 amount determined under sub-  
 24 clause (III).

1 “(II) STATE EXPENDITURE PER  
 2 PERSON IN POVERTY AMOUNT.—For  
 3 purposes of subclause (I)(aa), the  
 4 State expenditure per person in pov-  
 5 erty amount is the quotient of—

6 “(aa) the total amount of  
 7 annual expenditures by the State  
 8 for providing medical assistance  
 9 under the State plan to non-  
 10 disabled, nonelderly adults and  
 11 children; divided by

12 “(bb) the total number of  
 13 nonelderly adults and children in  
 14 poverty who reside in the State,  
 15 as determined under paragraph  
 16 (4)(A).

17 “(III) NATIONAL EXPENDITURE  
 18 PER PERSON IN POVERTY AMOUNT.—  
 19 For purposes of subclause (I)(bb), the  
 20 National expenditure per person in  
 21 poverty amount is the quotient of—

22 “(aa) the sum of the total  
 23 amounts determined under sub-  
 24 clause (II)(aa) for all States; di-  
 25 vided by



1 “(bb) the sum of the total  
 2 amounts determined under sub-  
 3 clause (II)(bb) for all States.

4 “(C) STATE’S TOTAL MEDICAID QUAR-  
 5 TERLY SPENDING AMOUNT.—For purposes of  
 6 subparagraph (A)(i)(II), the State’s total Med-  
 7 icaid quarterly spending amount determined  
 8 under this subparagraph with respect to a State  
 9 and a quarter is the amount equal to—

10 “(i) the total amount of expenditures  
 11 by the State for providing medical assist-  
 12 ance under the State plan to all individuals  
 13 enrolled in the plan for the most recent fis-  
 14 cal year for which data is available; divided  
 15 by

16 “(ii) 4.

17 “(4) DATA.—In making the determinations re-  
 18 quired under this subsection, the Secretary shall use,  
 19 in addition to the most recent available data from  
 20 the Bureau of Labor Statistics Local Area Unem-  
 21 ployment Statistics for each State referred to in  
 22 paragraph (5), the most recently available—

23 “(A) data from the Bureau of the Census  
 24 with respect to the number of nonelderly adults  
 25 and children who reside in a State described in

1 paragraph (2) with family income below the  
 2 poverty line (as defined in section 2110(c)(5))  
 3 applicable to a family of the size involved (or,  
 4 if the Secretary determines it appropriate, a  
 5 multiyear average of such data);

6 “(B) data reported to the Secretary by a  
 7 State described in paragraph (2) with respect to  
 8 expenditures for medical assistance under the  
 9 State plan under this title for nondisabled, non-  
 10 elderly adults and children; and

11 “(C) econometric studies of the responsive-  
 12 ness of Medicaid enrollments and spending to  
 13 changes in rolling average unemployment rates  
 14 and other factors, including State spending on  
 15 certain Medicaid populations.

16 “(5) DEFINITION OF ‘ROLLING AVERAGE NUM-  
 17 BER OF UNEMPLOYED INDIVIDUALS’, ‘ROLLING AV-  
 18 ERAGE UNEMPLOYMENT RATE’.—In this subsection,  
 19 the term—

20 “(A) ‘rolling average number of unem-  
 21 ployed individuals’ means, with respect to a cal-  
 22 endar quarter and a State, the average of the  
 23 12 most recent months of seasonally adjusted  
 24 unemployment data for each State;

1 “(B) ‘rolling average unemployment rate’  
 2 means, with respect to a calendar quarter and  
 3 a State, the average of the 12 most recent  
 4 monthly unemployment rates for the State; and

5 “(C) ‘monthly unemployment rate’ means,  
 6 with respect to a State, the quotient of—

7 “(i) the monthly seasonally adjusted  
 8 number of unemployed individuals for the  
 9 State; divided by

10 “(ii) the monthly seasonally adjusted  
 11 number of the labor force for the State,  
 12 using the most recent data available from the Bu-  
 13 reau of Labor Statistics Local Area Unemployment  
 14 Statistics for each State.

15 “(6) INCREASE IN CAP ON PAYMENTS TO TER-  
 16 RITORIES.—With respect to any fiscal year quarter  
 17 for which the national economic downturn assistance  
 18 Federal medical assistance percentage applies to  
 19 Puerto Rico, the Virgin Islands, Guam, the North-  
 20 ern Mariana Islands, or American Samoa, the  
 21 amounts otherwise determined for such common-  
 22 wealth or territory under subsections (f) and (g) of  
 23 section 1108 shall be increased by such percentage  
 24 of such amounts as the Secretary determines is  
 25 equal to twice the average increase in the national

1 economic downturn assistance FMAP determined for  
2 all States described in paragraph (2) for the quar-  
3 ter.

4 “(7) SCOPE OF APPLICATION.—The national  
5 economic downturn assistance FMAP shall only  
6 apply for purposes of payments under section 1903  
7 for a quarter and shall not apply with respect to—

8 “(A) disproportionate share hospital pay-  
9 ments described in section 1923;

10 “(B) payments under title IV or XXI; or

11 “(C) any payments under this title that  
12 are based on the enhanced FMAP described in  
13 section 2105(b).

14 “(8) ADDITIONAL REQUIREMENT FOR CERTAIN  
15 STATES.—In the case of a State described in para-  
16 graph (2) that requires political subdivisions within  
17 the State to contribute toward the non-Federal share  
18 of expenditures required under section 1902(a)(2),  
19 the State shall not require that such political sub-  
20 divisions pay for any fiscal year quarters occurring  
21 during a national economic downturn assistance pe-  
22 riod a greater percentage of the non-Federal share  
23 of such expenditures, or a greater percentage of the  
24 non-Federal share of payments under section 1923,  
25 than the respective percentage that would have been

1 required by the State under State law in effect on  
 2 the first day of the fiscal year quarter occurring im-  
 3 mediately prior to the trigger quarter for the pe-  
 4 riod.”.

5 (2) EFFECTIVE DATE; NO RETROACTIVE APPLI-  
 6 CATION.—The amendments made by paragraph (1)  
 7 take effect on January 1, 2012. In no event may a  
 8 State receive a payment on the basis of the national  
 9 economic downturn assistance Federal medical as-  
 10 sistance percentage determined for the State under  
 11 section 1905(y)(3) of the Social Security Act for  
 12 amounts expended by the State prior to January 1,  
 13 2012.

14 (b) GAO STUDY AND REPORT.—

15 (1) STUDY.—The Comptroller General of the  
 16 United States shall analyze the previous periods of  
 17 national economic downturn, including the most re-  
 18 cent such period in effect as of the date of enact-  
 19 ment of this Act, and the past and projected effects  
 20 of temporary increases in the Federal medical assist-  
 21 ance percentage under the Medicaid program with  
 22 respect to such periods.

23 (2) REPORT.—Not later than April 1, 2011, the  
 24 Comptroller General of the United States shall sub-  
 25 mit a report to Congress on the results of the anal-

1        ysis conducted under paragraph (1). Such report  
2        shall include such recommendations as the Comp-  
3        troller General determines appropriate for modifying  
4        the national economic downturn assistance FMAP  
5        established under section 1905(y) of the Social Secu-  
6        rity Act (as added by subsection (a)) to improve the  
7        effectiveness of the application of such percentage in  
8        addressing the needs of States during periods of na-  
9        tional economic downturn, including recommenda-  
10       tions for—

11                (A) improvements to the factors that begin  
12                and end the application of such percentage;

13                (B) how the determination of such percent-  
14                age could be adjusted to address State and re-  
15                gional economic variations during such periods;  
16                and

17                (C) how the determination of such percent-  
18                age could be adjusted to be more responsive to  
19                actual Medicaid costs incurred by States during  
20                such periods, as well as to the effects of any  
21                other specific economic indicators that the  
22                Comptroller General determines appropriate.

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